IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5695 OF 2005

Manubhai Laxmichand
Sangani and Ors. ..Applicants

Vs.

State of Maharashtra & Anr. ...Respondents

...

Mr.A.H.H.Ponda Advocate for Applicants
Mr.R.S.Khadapkar A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : SEPT. 14,2005

P.C.

1. Heard the learned advocate for the applicants and the learned A.P.P. for the State.

2. The applicant is seeking quashing of proceedings relating to Criminal Case No. 235/S/2003 pending before the Metropolitan Magistrate, 21st Court at Bandra, Mumbai. In the said case, process has been issued against the applicants under Sections 420, 506(II) of IPC. The learned advocate for the applicants submitted that

the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further submitted that if the process issued against the applicants is set aside, the proceedings in respect of the applicants, would come to an end.

3. For the reasons recorded in the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode reported in 2005(3) Mh.L.J.778,** I am of the opinion that the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicants makes a statement that the necessary revision will be preferred within four weeks from today. I am informed that the date before the

trial Court is 4.10.2005. In view of above statement, the trial Court shall not proceed with the trial on 4.10.2005 and for a period of ten days thereafter.

5. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Criminal Application is disposed of.

[V.K.TAHILRAMANI,J.]